



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TEGE EO Examinations Mail Stop 4920 DAL
1100 Commerce St.
Dallas, Texas 75242

501.03-00

Date: September 17, 2010

Release Number: 201101028

Release Date: 1/7/11

LEGEND

ORG - Organization name

XX - Date Address - address

Taxpayer Identification Number:

Person to Contact:

Employee Identification Number:

Employee Telephone Number:

Phone)

Fax)

ORG

ADDRESS

CERTIFIED MAIL – RETURN RECEIPT

Dear

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code. Our favorable determination letter to you dated June 19XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective October 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

Organizations described in IRC 501(c)(3) and exempt under section 501(a) must be both organized and operated exclusively for exempt purposes. You have failed to establish that you are operated exclusively for exempt purposes and that no part of your net earnings inures to the benefit of private shareholders or individuals. You are not operated for exempt purposes because you are not operating at all nor do you plan on resuming operating for an exempt purpose.

Contributions to your organization are no longer deductible under IRC §170 after October 1, 20XX.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax year ending September 30, 20XX, and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to the United States Tax Court at the following address:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892

Internal Revenue Service

Department of the Treasury
230 S. Dearborn Street
MC 4923 CHI, Room 1700
Chicago, IL 60604-1505

Date: October 30, 2009

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Sunita Lough
Director of EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX/SEPT 30

LEGEND

ORG - Organization name XX - Date Address - address City - city
 State - state CEO - Ceo DIR-1, DIR-2 & DIR-3 - 1ST, 2ND & 3RD DIR
 CO-1, CO-2 & CO-3 - 1ST, 2ND, & 3RD COMPANIES

ISSUE

Whether or not this organization is operating exclusively for **any** charitable, educational, or scientific reason under IRC section 501(c)(3).

FACTS

A. Organizational Information:

Articles of Incorporation:

The ORG was incorporated under the nonprofit corporation act of the City on April 22, 19XX. The purpose of which was to:

- raise funds for distribution to charitable organizations engaged in improving child safety and health;
- engage directly in activities beneficial to child safety and health;
- establish in the main office or elsewhere all departments and activities necessary to carry out of the purposes of the corporation; and
- to engage in any and all lawful activities incidental to the foregoing purposes except as restricted herein.

The original incorporators of this organization were: DIR-1, DIR-2 and DIR-3 all attorneys in the law firm of CO-1 out of State

Exemption:

Exemption was granted to the organization in June of 19XX as an organization described in 170(b)(1)(A)(vi).

B. Operational Information:

The organization's Form 990 for fiscal year ending 9/30/20XX was examined for compliance with the laws governing organizations exempt under section 501(c)(3). Per that examination, the sources and uses of funds were analyzed to determine the activities of the organization.

1. Sources of Revenues:

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For the examination year, it was noted that the primary source of revenue was derived from gaming activities conducted at a facility located in City, State. **(See Exhibit A)** The net result of the gaming activities resulted in a loss of about \$.

The State facility was being leased by CEO. (CEO) as a partnership called CO-2. This facility was also regularly used by many of the tax-exempt organizations created by or on behalf of CEO. until it was shut down in 20XX. The bingo license, that was issued by the Commonwealth of State Department of Charitable Gaming allowed this organization to conduct gaming operations every Tuesday and Friday of the week.

On January 18, 20XX, the bingo license was withdrawn in a letter issued by DIR-1¹, who identified himself as president of the organization. Per the letter, the effective date of such withdrawal was effective as of February 27, 20XX. **(See Exhibit B)** Consequently, all gaming activities ceased from that date forward.

The second largest source of gross receipts was derived from amounts characterized as contributions from other 501(c)(3) entities **(See Exhibit A & C)**. The entities making the 'contributions' were **all** created and controlled by CEO.

In the years subsequent to the examination year, other than the receipt of funds from one or more related 501(c)(3) organizations created and controlled by CEO., this exempt organization has not carried on an active program of public solicitation or exempt activities.

2. Uses of Funds:

For the examination year, 97% of the gross expenses were used in relationship to the gaming activities conducted in State **(See Exhibit D)**. The majority of the remaining expenditures were made for the legal services of DIR-1 via CO-1 and insurance payments to the CO-3². DIR-1 and DIR-4 have both served as president, director or other officer with respect to one or more of the tax-exempt organizations created and controlled by CEO. **(See Exhibit E)**

ORG basic business operations were primarily conducted from the law offices of DIR-1 or from the facility located at Address, City, State.

* * * *

¹ DIR-1 also performs legal services and serves on the board of many other tax-exempt organizations created by CEO.

² The CO-3 is an insurance company owned in partnership by DIR-4 who also has served as a officer to one or more of the tax-exempt organizations created by CEO. DIR-4 passed away in early part of 20XX.

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Name of Taxpayer ORG		Year/Period Ended 20XX/SEPT 30

LAW

Internal Revenue Code section 501(c)(3) provides for the exemption from Federal income tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the income Tax Regulations provides that in order to qualify for exemption an organization must be both ***organized and operated*** exclusively for one or more exempt purposes. Failure to meet either the organizational or operational test will disqualify an organization from exemption under section 501(c)(3).

Treasury Regulations section 1.501(c)(3)-1(c)(1) states that, an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages *primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3)*. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

ARGUMENT

The ORG was originally created to raise funds for distribution to charitable organizations engaged in improving child safety and health and to engage directly in activities beneficial to child safety and health, as was stated in its articles of incorporation. In fact, the ***sole*** activity of this organization was the conduct of gaming activities. The organization did not engage in any active solicitation of funds from the general public to carry out any exempt function during the exam year or any year thereafter.

The funds that were listed as being derived from public sources were actually received from other tax-exempt entities created and controlled by CEO. Historically, these tax-exempt entities would transfer funds from one entity to the other in the same year or different years. The obvious reasoning for the transferring of the funds is to forego classification as a private foundation. The second reasoning would be to give the public an illusion that the donor organizations are operating independently of one another. Irrespective of the intent to mislead, this organization is not carrying on any activity that would substantiate the need for the continuation of tax-exempt status.

The expenses made by the organization in the examination year are also of dubious purpose. The lion's share of any finances remaining after the gaming facet has been distributed to the law offices of DIR-1, the individual listed as president of this

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Name of Taxpayer ORG	Explanation of Items	Year/Period Ended 20XX/SEPT 30

organization and who also serves as an officer/director on many more tax-exempt entities created by CEO. The second largest distribution has been to the CO-3, which is owned in part by DIR-4, who has also served on many boards of the related tax-exempt entities.

In effect, the amounts received from the other tax-exempt organizations is then utilized to pay for services of individuals closely connected with this organization or with one or more of the other organizations related to this organization. This has been the same pattern for subsequent years.

In accordance with Section 1.501(c)(3)-1(a)(1) of the income Tax Regulations, an organization must be both **organized and operated** exclusively for one or more exempt purposes. **Failure to meet either the organizational or operational test** will disqualify an organization from exemption under section 501(c)(3). This organization is not operated for exempt purposes, because it is not operating at all.

If evidence clearly indicates that the organization never will resume operating for an exempt purpose, as required by **1.501(c)(3)-1(c)(1)**, its exempt status should be revoked pursuant to **Proc. 84-46, 1984-1 C.B. 541**.

TAXPAYER'S POSITION

Taxpayer has not officially advocated a position but acknowledges that the organization is inactive and has no intention to conduct future activities. Additionally, the Taxpayer had considered a voluntary termination of exempt status but opted not to do so due to the liability owed DIR-1 via CO-1.

GOVERNMENT'S POSITION

Based upon the regulations and Code, we hold that your organization is **not** operated exclusively for **any** charitable, educational, or scientific purpose, thereby defeating the retention of exemption.

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Code.

Revocation of your exempt status will be effective as of October 1, 20XX. In accordance with this determination, you are required to file Federal income tax returns on Form 1120. Contributions to your organization are no longer deductible by donors under section 170(c)(2) of the Code.

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In accordance with the provisions of section 6104(c) of the Code a copy of this letter will be sent to the appropriate State officials.

On December 2, 20XX, the D.C. Circuit ruled that the Service will disclose our denials and revocations under section 6110 effective August 1, 20XX. *Tax Analysts v. IRS*, 350 F.3rd 100 (D.C. Cir. 20XX)